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PREPARATORY COMMITTEE FOR THE UNITED
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Working Group III
Agenda item 4

OTHER LEGAL, INSTITUTIONAL AND RELATED MATTERS, AS WELL AS LEGAL AND INSTITUTIONAL ASPECT OF CROSS-SECTORAL ISSUES, INCLUDING THOSE REFERRED TO WORKING GROUP III BY WORKING GROUP I, WORKING GROUP II AND THE PLENARY OF THE PREPARATORY COMMITTEE

Elements for section IV, chapter 6, of Agenda 21: International institutional arrangements

Draft proposal by the Chairman

I. BASIS FOR ACTION

1. (Agreed) The mandate of the United Nations Conference on Environment and Development emanates from General Assembly resolution 44/228 in which the Assembly, inter alia, affirmed that the Conference should elaborate strategies and measures to halt and reverse the effects of environmental degradation in the context of increased national and international efforts to promote sustainable and environmentally sound development in all countries and that the promotion of economic growth in developing countries is essential to address problems of environmental degradation. The intergovernmental follow-up to the Conference process shall be within the framework of the United Nations system, with the General Assembly being the supreme policy-making forum that would provide overall political guidance to Governments, United Nations system and relevant treaty bodies. At the same time, Governments, as well as regional economic and technical cooperation organizations, have a responsibility to play an important role in the

follow-up to the Conference. Their commitments and actions should be adequately supported by the United Nations system and multilateral financial institutions. Thus, national and international efforts would mutually benefit from one another.

2. (Agreed) In fulfilling the mandate of the Conference, there is a need for institutional arrangements within the United Nations system in conformity with, and providing input into, the restructuring and revitalization of the United Nations in the economic, social and related fields, and the overall reform of the United Nations, including ongoing changes in the Secretariat. In the spirit of reform and revitalization of the United Nations system, implementation of Agenda 21 and other conclusions of the Conference shall be based on an action- and result-oriented approach and consistent with the principles of universality, democracy, transparency, cost-effectiveness and accountability.

3. (Agreed) The United Nations system, with its multisectoral capacity and the extensive experience of a number of specialized agencies in various spheres of international cooperation in the field of environment and development, is uniquely positioned to assist Governments establish more effective patterns of economic and social development with a view to achieving the objectives of Agenda 21 and sustainable development.

4. (Agreed) All agencies of the United Nations system have a key role to play in the implementation of Agenda 21 within their respective competence. To ensure proper coordination and avoid duplication in the implementation of Agenda 21, there should be an effective division of labour between various parts of the United Nations system based on their terms of reference and comparative advantages. Member States, through relevant governing bodies, are in a position to ensure that these tasks are carried out properly. In order to facilitate evaluation of agencies' performance and promote knowledge of their activities, all bodies of the United Nations system should be required to elaborate and publish reports of their activities on the implementation of Agenda 21 on a regular basis. Serious and continuous reviews of their policies, programmes, budgets and activities will also be required.

5. (Agreed) The continued active and effective participation of non-governmental organizations, the scientific community and the private sector as well as local groups and communities are important in the implementation of Agenda 21.

6. (Agreed) The institutional structure envisaged below will be based on agreement on financial resources and mechanisms, technology transfer, the Earth Charter and Agenda 21. In addition, there has to be an effective link between substantive action and financial support, and this requires close and effective cooperation and exchange of information between the United Nations system and the multilateral financial institutions for the follow-up of Agenda 21 within the institutional arrangement.

II. OBJECTIVES

7. (Agreed) The overall objective is the integration of environment and development issues at national, subregional, regional and international levels, including in the United Nations system institutional arrangements.

8. Specific objectives shall be:

(a) To ensure and review the implementation [and funding (pending the decision on financial issues)] of Agenda 21 so as to achieve sustainable development in all countries;

(b) (Agreed) To enhance the role and functioning of the United Nations system in the field of environment and development. All relevant agencies, organizations and programmes of the United Nations system should adopt concrete programmes for the implementation of Agenda 21 and also provide policy guidance for United Nations activities or advice to Governments, upon request, within their respective areas of competence;

(c) (Agreed) To strengthen cooperation and coordination on environment and development in the United Nations system;

(d) (Agreed) To encourage interaction and cooperation between the United Nations system and other intergovernmental and non-governmental subregional, regional and global institutions and non-governmental organizations in the field of environment and development;

(e) (Agreed) To strengthen institutional capabilities and arrangements required for the effective implementation, monitoring and review of Agenda 21;

(f) (Agreed) To assist in the strengthening and coordination of national, subregional and regional capacities and actions in the areas of environment and development;

(g) (Agreed) To establish effective cooperation and exchange of information between the United Nations organs, organizations, programmes and the multilateral financial bodies, within the institutional arrangements for the follow-up of Agenda 21;

(h) (Agreed) To respond to continuing and emerging issues relating to environment and development;

(i) (Agreed) To ensure that any new institutional arrangements would support revitalization, clear division of responsibilities and the avoidance of duplication in the United Nations system and depend to the maximum extent possible upon existing resources.

III. INSTITUTIONAL STRUCTURE

A. General Assembly

9. The General Assembly, as the highest level intergovernmental mechanism, is the principal policy-making and appraisal organ on matters relating to the follow-up of the Conference. The Assembly would organize a regular review of the implementation of Agenda 21. In fulfilling this task, the Assembly could consider the timing, format and organizational aspects of such a review. In particular, the Assembly could consider holding a special session no later than 1997 for the purposes of overall review and appraisal of Agenda 21, with adequate preparations at a high level.

B. Economic and Social Council

10. The Economic and Social Council, in the context of its Charter role vis-à-vis the General Assembly and the ongoing restructuring and revitalization of the United Nations in the economic, social and related fields, would assist the General Assembly through overseeing system-wide coordination [, policy guidance] and overview on the implementation of Agenda 21. In addition, the Council would undertake the task of directing system-wide coordination and integration of environmental and developmental aspects in the United Nations policies and programmes and make appropriate recommendations to the General Assembly, Member States and specialized agencies concerned. Appropriate steps should be taken to obtain regular reports from specialized agencies on their plans and programmes related to the implementation of Agenda 21, pursuant to Article 64 of the Charter of the United Nations.

INTERGOVERNMENTAL MECHANISMS

11. [To be added later]

INTERGOVERNMENTAL FUNCTIONS

12. The intergovernmental functions to be undertaken within the framework of the Assembly and the Council and any other intergovernmental mechanism that may be established are:

(a) (Agreed) To monitor progress in the implementation of Agenda 21 and activities related to the integration of environmental and developmental goals throughout the United Nations system through analysis and evaluation of reports from all relevant organs, organizations, programmes and institutions of the United Nations system dealing with various issues of environment and development, including those related to finance;

(b) (Agreed) To consider reports periodically provided by Governments regarding the implementation of Agenda 21 including information on activities they undertake and problems they face such as on financial resources and technology transfer;

(c) (Agreed) To review the progress in the implementation of the commitments contained in Agenda 21, including those related to provision of financial resources and transfer of technology;

(d) (Agreed) To receive and analyse relevant input from competent non-governmental organizations, including the scientific and the private sector, in the context of the overall implementation of Agenda 21;

(e) (Agreed) To enhance the dialogue within the framework of the United Nations with non-governmental organizations and the independent sector as well as other entities outside the United Nations system;

(f) [To consider reports presented by relevant treaty bodies on the implementation of environmental conventions.] [To consider reports on implementation of environmental conventions which the relevant conferences of parties may wish to provide;]

(g) (Agreed) To provide appropriate recommendations to the General Assembly on the basis of an integrated consideration of the reports and issues related to the implementation of Agenda 21;

[(h) To consider the results of the review to be conducted expeditiously by the Secretariat of all recommendations of the Conference for capacity-building programmes, information networks, task forces and other mechanisms to support the integration of environment and development at regional and subregional levels.]

13. (Agreed) Within the intergovernmental framework, consideration should be given to allow non-governmental organizations including those related to major groups, particularly women's groups, committed to the implementation of Agenda 21 to have relevant information available to them including information, reports and other data produced within the United Nations system.

C. The Secretary-General

14. (Agreed) Strong and effective leadership on the part of the Secretary-General is crucial, since he/she would be the focal point of the institutional arrangements within the United Nations system for the successful follow-up to the Conference and for the implementation of Agenda 21.

D. [High-level] Interagency coordination mechanism

15. Agenda 21, as the basis for action by the international community to integrate environment and development, should provide the principal framework for coordination of relevant activities within the United Nations system. To ensure effective monitoring, coordination and supervision of the involvement of the United Nations system in the follow-up to the Conference, there is a need for a [high-level] coordination mechanism under the direct leadership of the Secretary-General.

16. (Agreed) This task should be given to the Administrative Committee on Coordination (ACC) headed by the Secretary-General. ACC would thus provide a vital link and interface between the multilateral financial institutions and other United Nations bodies at the highest administrative level. The Secretary-General should continue to revitalize the functioning of the Committee. All heads of agencies and institutions of the United Nations system shall be expected to cooperate with the Secretary-General fully in order to make ACC work effectively in fulfilling its crucial role and ensure successful implementation of Agenda 21. ACC should consider establishing a special task force, subcommittee or sustainable development board, taking into account the experience of DOEM and CIDIE as well as the respective roles of UNEP and UNDP. Its report should be submitted to the relevant intergovernmental bodies.

[17. The Secretary-General and ACC and accordingly relevant intergovernmental bodies could also benefit from the expertise of the scientific community through a high-level consultative committee or advisory panel consisting of experts in the natural and social sciences. Its members would be appointed in their personal capacity by the Secretary-General. This arrangement would build on the experience of innovative approaches to environment and development, such as the Intergovernmental Panel on Climate Change, the Consultative Group on International Agricultural Research, and draw on existing institutions such as ITTO, ICSU and IUCN and other relevant non-governmental organizations. This advisory body should be convened [when the Secretary-General and ACC establish the need for such a meeting] using existing resources [within the United Nations system]. [Its report should be submitted to the relevant intergovernmental bodies.] [Specialized agencies should also, within their mandates and available resources, consider better integrated and more intensive efforts in the geophysical and environmental sciences as well as relevant aspects of the social sciences, as the part of the follow-up to the Conference.]

E. Secretariat support structure

[18. A highly qualified and competent secretariat support structure drawing, inter alia, on the expertise gained in the Conference preparatory process is essential for the follow-up to the Conference and the implementation of Agenda 21. This secretariat support structure should provide support to the work of both intergovernmental and inter-agency coordination mechanisms.

Concrete organizational decisions fall within the competence of the Secretary-General as the chief administrative officer of the Organization, who is requested to report on the staffing implications expeditiously taking into account appropriate gender balance and the need for the best use of existing resources within the Organization.]

F. Organs, programmes, organizations of the United Nations system

19. (Agreed) In the follow-up to the Conference, in particular implementation of Agenda 21, all relevant organs, programmes and organizations of the United Nations system will have an important role within their respective areas of expertise and mandates in supporting and supplementing national efforts. Coordination and mutual complementarity of their efforts to promote integration of environment and development can be enhanced through countries encouraging to maintain consistent positions in the various governing bodies.

United Nations Environment Programme

20. (Agreed) In the follow-up to the Conference, there will be a need for an enhanced and strengthened role of UNEP and its Governing Council. The Governing Council should within its mandate continue to play its role with regard to policy guidance and coordination in the field of the environment, taking into account the development perspective.

21. Priority areas on which UNEP should concentrate include the following:

(a) (Agreed) Strengthening its catalytic role in stimulating and promoting environmental activities and considerations throughout the United Nations system;

(b) [Development and coordination of international environmental efforts] [to promote international cooperation in the field of environment and the development of international environmental policies including those for the development and promotion of the widest possible use of techniques such as natural resource accounting and environmental economics];

(c) (Agreed) Environmental monitoring and assessment, both through improved participation by the United Nations system agencies in the Earthwatch programme and expanded relations with private scientific and non-governmental research institutes; strengthening and making operational its early-warning function;

(d) (Agreed) Coordination and promotion of relevant scientific research with a view to providing a consolidated basis for decision-making;

(e) (Agreed) Dissemination of environmental information and data to Governments and to organs, programmes and organizations of the United Nations system;

(f) (Agreed) Raising general awareness and action in the area of environmental protection through collaboration with the general public, non-governmental entities and intergovernmental institutions;

(g) Further development of international environmental law, in particular conventions and guidelines, promotion of its implementation, and coordinating functions arising from an increasing number of international legal agreements, inter alia, the functioning of the secretariats of the Conventions, [taking into account the [need] [possibility and desirability] for them to be regrouped, preferably at the same location];

(h) (Agreed) Further development and promotion of the widest possible use of environmental impact assessments, including activities carried out under the auspices of United Nations specialized agencies, and in connection with every significant economic development project or activity;

(i) (Agreed) Facilitation of information exchange on environmentally sound technologies, including legal aspects, and provision of training;

(j) (Agreed) Promotion of subregional and regional cooperation and support to relevant initiatives and programmes for environmental protection, including playing a major contributing and coordinating role in the regional mechanisms in the field of environment identified for the follow-up to the Conference;

(k) (Agreed) Provision of technical, legal and institutional advice to Governments in establishing and enhancing their national legal and institutional frameworks, in particular, in cooperation with UNDP capacity-building efforts;

(l) (Agreed) Support to Governments and development agencies and organs in the integration of environmental aspects into their development policies and programmes, in particular through provision of environmental, technical and policy advice during programme formulation and implementation;

(m) (Agreed) Further developing assessment and assistance in cases of environmental emergencies.

22. (Agreed) In order for UNEP to perform all of these functions, while retaining its role as the principal body within the United Nationsm system in the field of environment and taking into account the development aspects of environmental questions, it would require access to greater expertise and provision of adequate financial resources and it would require closer cooperation and collaboration with development organs and other relevant organs of the United Nations system. Furthermore, the regional offices of UNEP should be strengthened without weakening its Headquarters in Nairobi,

and UNEP should take steps to reinforce and intensify its liaison and interaction with UNDP and the World Bank.

United Nations Development Programme

[23. UNDP, like UNEP, also has a crucial role in the follow-up to the Conference. Through its network of field offices it would foster the United Nations system's collective thrust in support of sustainable development at the country, regional, interregional and global levels. [On the basis of the UNDP Governing Council decision for] [Without [affecting] [prejudice to]] the Fifth Programme cycle, it would be one of the main financing and operational agencies in the implementation of Agenda 21, drawing on the expertise of the specialized agencies and other United Nations organizations and bodies involved in operational activities.]

24. Its role would include the following:

(a) (Agreed) Acting as the lead agency in organizing United Nations system efforts towards capacity-building at the local, national and regional levels;

[(b) Mobilizing donor resources on behalf of Governments for capacity-building in recipient countries [especially through the use of the UNDP donor round-table mechanisms];

(c) Strengthening its own programmes in support of Agenda 21;

(d) Assisting recipient countries in the establishment and strengthening of national coordination mechanisms and networks related to activities for sustainable development;

(e) Assisting recipient countries in coordinating the mobilization of [domestic] financial resources to strengthen national capacities for sustainable development.]

United Nations Conference on Trade and Development

[25. Taking into account the importance of interrelationships between development, international trade and the environment, UNCTAD should play an important role in the implementation of Agenda 21 in line with its mandate in the area of sustainable development which was extended at its eighth Conference.

United Nations Sudano-Sahelian Office

26. (Agreed) The role of UNSO, with added resources that may become available, operating under the umbrella of UNDP and with the support of UNEP, should be strengthened so that this body can assume an appropriate major advisory role and participate effectively in the implementation of Agenda 21 provisions related to combating drought and desertification as well as land resource management. In this context, the experience gained could be used by all other countries affected by drought and desertification, in particular those in Africa, with special attention to countries most affected or classified as LDCs.

United Nations specialized agencies and related organizations

[27. All United Nations specialized agencies and related organizations have an important role to play in the implementation of relevant parts and objectives of Agenda 21. In this regard, their respective governing bodies should promote international cooperation in the respective fields of their activities and streamline their programmes in accordance with Agenda 21. [Agencies have a special role according to their specific mandate and specialization in providing technical assistance and establishing special arrangements with donors and financial institutions for project implementation.] They should contribute reports on their relevant activities for consideration by the Economic and Social Council. [In this connection, they should be given additional financial aid and technical resources to permit them to assist developing countries, in the implementation of Agenda 21 and of other decisions of the Conference, according to their respective mandates. The support given to developing countries for the implementation of these activities should not be conditional.]

G. Regional and subregional implementation

[to be added later]

H. National implementation

29. (Agreed) States have an important role to play in the follow-up of the Conference and the implementation of Agenda 21. National level efforts should be undertaken by all countries in an integrated manner so that both environment and development concerns can be dealt with in a coherent manner.

30. Policy decisions and activities at the national level, [including possible preparation of national reports] tailored to support and implement Agenda 21, should be encouraged and assisted by the United Nations system. In particular, the role of the resident representative of UNDP needs to be strengthened in order to coordinate the field-level activities of the United Nations operational activities.

31. (Agreed) Existing assistance consortia, consultative groups and round tables should make greater efforts to integrate environmental considerations and related development objectives into their development assistance strategies, and consider reorienting and appropriately adjusting their memberships and operations to facilitate this process and better support national efforts to integrate environment and development.

32. (Agreed) States may wish to consider setting up a national coordination structure responsible for the follow-up of Agenda 21. Within this structure, which would benefit from the expertise of non-governmental organizations, submissions and other relevant information could be made to the United Nations.

I. Cooperation between United Nations bodies and international financial organizations

33. The success of the follow-up to the Conference is dependent upon an effective link between substantive action and financial support, and this requires close and effective cooperation between United Nations bodies and the multilateral financial organizations. The Secretary-General and heads of United Nations programmes, organizations and the multilateral financial organizations have a special responsibility in forging such a cooperation, not only through the United Nations high-level coordination mechanism (Administrative Committee on Coordination) but also at regional and national levels. In particular, representatives of multilateral financial institutions and mechanisms [and IFAD] should participate actively in the deliberations of the intergovernmental structure responsible for the follow-up to Agenda 21.

J. Non-governmental organizations

34. (Agreed) Non-governmental organizations and major groups are important partners in the implementation of Agenda 21. Relevant non-governmental organizations, including the scientific community, the private sector, women's groups etc., should be given opportunities to make their contributions and establish appropriate relationships with the United Nations system. Support should be provided for developing countries' non-governmental organizations and their self-organized networks.

35. (Agreed) The United Nations system, including international finance and development agencies, and all intergovernmental organizations and forums should, in consultation with non-governmental organizations take measures to:

(a) Design open and effective means to achieve the participation of non-governmental organizations, including those related to major groups, in the process established to review and evaluate the implementation of Agenda 21 at all levels and promote their contribution to it;

(b) Take into account the findings of review systems and evaluation processes of non-governmental organizations in relevant reports of the

Secretary-General to the General Assembly and all pertinent United Nations agencies and intergovernmental organizations and forums concerning implementation of Agenda 21 in accordance with its review process.

[36. Procedures shall be established for an advisory role for non-governmental organizations, including those related to major groups, with accreditation based on the procedures used in the Conference. Such organizations should have access to reports and other information produced by the United Nations system. The General Assembly, at an early stage, should examine ways of enhancing the involvement of non-governmental organizations within the United Nations system.]

K. Other matters

[37. Legal questions relating, inter alia, to the [prevention and] settlement of environmental disputes [will] [may] require further examination after the Conference in order to assess the capacity of the United Nations system in this field. [For the peaceful settlement of environmental disputes, an arbitration chamber should be established within the International Court of Justice.]

38. The Conference takes note of other institutional initiatives for the implementation of Agenda 21, such as the proposal to establish a non-governmental Earth Council.